IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6424 OF 2002

Smt.Vimal Shrimant Kamble Petitioner

versus

State of Maharashtra & others Respondents

Mukesh V. Aiya, adv. for petitioner.

A.H.Palekar, AGP for respondents 1 to 3.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17th December 2004

PC :

1. The petitioner is challenging an order of the revisional authority exercising powers under the Control Order pertaining to allotment of Fair Price Shops. In the submission of Mr.Aiya, learned counsel for petitioner, the order impugned in this petition delivered on 4th September 2002 has been passed without issuing any notice to the petitioner and without affording any opportunity to him to put forward his case. Therefore, Mr.Aiya submits that the petitioner was deprived of an opportunity to convince the revisional authority that Fair Price Shop could have been allotted to her as she has

fulfilled the requisite criteria and is thus eligible. Mr.Aiya invites my attention to the fact that authorisation has been granted in favour of respondent no.4 and applications of petitioner as well as respondents 5 and 6 have been rejected by the Trial Court. The petitioner as well as respondents 5 and 6 preferred revision application but the petitioner did not receive any notice of hearing of the said revision application. Mr.Aiya submits that great prejudice is caused inasmuch as respondents 5 and 6 have been successful in getting the Fair Price Shops in their favour at the same hearing which was held also to consider petitioner's revision application. Since the petitioner could not remain present and put forward her case, she did not have any opportunity of getting the allotment in her favour.

2. Mr.Aiya makes a statement that he has no objection to the ration shops being granted pursuant to the impugned order to respondents 5 and 6. However, he requests for an opportunity to convince the revisional authority on merits of revision application preferred by petitioner.

3. In my view, on the petition, notice was

issued only because of the aforesaid grievance. Nothing has been brought on record to indicate that the petitioner had notice of the date of hearing and that she was given opportunity to remain present and put forward her submissions on the merits of the revision application by the revisional authority. The averments in the petition in that behalf remain uncontroverted. Therefore, interest of justice would be subserved if revision application preferred by petitioner is restored to file. The revisional authority is directed to consider the same on merits and in accordance with law after giving opportunity to the affected parties including respondents 5 and 6. All contentions on the merits are left open to be agitated before the revisional authority. The revisional authority shall pass appropriate orders in accordance with law after hearing parties on this revision application within a period of three months from today.

(S.C.DHARMADHIKARI, J.)